

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TERRY APPLING,

Plaintiff,

v.

WACHOVIA MORTGAGE, FSB, a Federal
Savings Bank; WORLD SAVING BANK, FA,
a Federal Savings Bank; WELLS FARGO
BANK, NA, a National Banking Association
member; IQ HOME LOANS AND REALTY
CORPORATION, a California Corporation;
ALI MIRZAEI and WILLIAM CHEN,

Defendants.

Case No.: 10-CV-01900-LHK

ORDER DENYING LEAVE TO FILE
SUR-REPLY

On January 13, 2011, Defendants filed a reply brief in which they asked the Court to consider rejecting Plaintiff's opposition brief as untimely. Approximately two-and-half weeks later, Plaintiff moved for leave to file a sur-reply in response to Defendants' request. Given the policy favoring decisions on the merits, the Court will not reject Plaintiff's opposition and finds that further briefing of the issue is unnecessary. Accordingly, Plaintiff's motion for leave to file a sur-reply is DENIED. However, the Court is concerned that Plaintiff has delayed filing an opposition, for various reasons, at least three times in this case. Plaintiff is advised that the Court will not look favorably on further delay, and future late filings may be stricken.

IT IS SO ORDERED.

Dated: February 2, 2011



LUCY H. KOH
United States District Judge